

DOCKET FILE COPY ORIGINAL

**Lavonne Adkins**

9 Fruit Tree Lane, Washington, Virginia 22747

September 25, 2006

FCC  
Chairman Kevin J. Martin  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Subject: Re: Federal-State Joint Board on Universal Service CC Docket 96-45

Dear Chairman:

As someone concerned about increased taxes and telephone fees, I oppose the big phone companies' plan to change the way monies are collected for the Universal Service Fund.

The plan being pushed by the big phone companies and some in Congress would change the Universal Service Fund (USF) collection methodology from a "pay-for-what-you-use" system to a "monthly flat-fee." This flat-fee system would result in forced phone bill hikes for me -- and for millions of low-volume, long-distance users in the U.S. Shifting the funding burden of the USF away from high-volume users -- like big businesses -- and placing the weight on low-volume users -- students, prepaid wireless users, senior citizens and low-income residential and rural consumers -- is unfair. I urge you and the FCC to REJECT this flat-fee plan. It is a de-facto tax increase of as much as \$707 million for 43 million of low-volume, long distance users in the United States.

Please pass along my concerns to the FCC on my behalf, letting them know that your constituents have contacted you to OPPOSE a USF numbers or flat-fee plan. Thank you for your continued work. I look forward to hearing about your position on this matter.

Sincerely,

Lavonne Adkins

cc: FCC General Email Box

SEARCHED \_\_\_\_\_  
INDEXED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_  
FILED \_\_\_\_\_

ANNE MILGRAM  
*Acting Attorney General*

September 21, 2006

**Via Email/Electronic Filing**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 - 12th Street, SW  
Washington, DC 20554

Karen Majcher  
Vice President, High Cost and Low Income Division  
Universal Service Administrative Company  
2000 L Street, NW, Suite 200  
Washington, DC 20036  
E-mail: [hcfilings@hcli.universalservice.org](mailto:hcfilings@hcli.universalservice.org)

Re: Warwick Valley Telephone Company – Certification with Regard  
to the Use of Universal Service Support

CC Docket No. 96-45

Dear Ms. Dortch & Ms. Majcher:

On behalf of the New Jersey Board of Public Utilities ("Board"), enclosed for filing please find a copy of the Board's recent Order of Approval, submitted in compliance with the certification requirements set forth in 47 C.F.R. § 54.314. Please accept this certification in full satisfaction of the Board's certification requirement.

The Board's certification and Order of Approval reflects the sworn affidavit of Michael A. Cutler, Vice President of Warwick, in which he states the following:

Warwick Valley Telephone Company hereby certifies that it will only use the federal high-cost universal support it

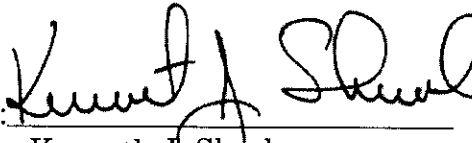


receives during 2006 for the provision, maintenance, and upgrading of the facilities and service for which such support is intended, as required by 5254(e) of the Telecommunications Act of 1996 and 41 C.F.R. § 54.101 et seq.

I thank you for your attention to this matter.

Very truly yours,

ANNE MILGRAM  
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:   
Kenneth J. Sheehan  
Deputy Attorney General

cc: Anthony Centrella, BPU  
Eric Votaw, Director of External Affairs  
Bradford M. Stern, Esq.  
Julie Huff, BPU



Agenda Date: 9/13/06  
Agenda Item: IVA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION OF WARWICK )  
VALLEY TELEPHONE COMPANY FOR CERTIFICATION )  
WITH REGARD TO THE USE OF UNIVERSAL SERVICE )  
SUPPORT )

**ORDER OF APPROVAL &  
CERTIFICATION**

DOCKET NO. TO01090575

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 28, 2006, pursuant to 47 C.F.R. §54.314, Warwick Valley Telephone Company (Warwick) filed a verified petition with the Board of Public Utilities (Board) requesting that the Board file a certification with the Federal Communications Commission (FCC) that Warwick's use of Universal Service Support funds is consistent with the purposes for which such funds may be used, according to federal law. On July 11, 2006 Warwick sent certification of publication regarding this matter. This certification must be filed by the Board with the FCC by October 1, 2006 in order for Warwick to receive its full allocation of funds under requirements imposed by the FCC. Because of this federal deadline, Warwick has requested expedited treatment of this matter, which the Board has agreed to provide.

Warwick is an incumbent local exchange carrier (ILEC) providing telecommunications services to customers in the Township of Vernon, County of Sussex, and Township of West Milford, County of Passaic, New Jersey, and the towns of Warwick and Goshen, New York. Warwick provides service to approximately 25,847 access lines, of which approximately 9,114 are in New Jersey. Warwick is a rural telephone company as defined by the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C. §§151 et seq.) (hereinafter, the Act). See 47 U.S.C. §153(37). The Board has previously certified Warwick as an eligible telecommunications carrier pursuant to 47 U.S.C. §214(e). See Order of Approval, I/M/O a Petition by Warwick Valley Telephone Company for Designation as an Eligible Telecommunications Carrier Under the Telecommunications Act of 1996, Docket No. TO97080587 (November 25, 1997). Under the Act, certification as an Eligible Telecommunications Carrier is necessary in order to receive federal Universal Service Support. 47 U.S.C. §254(e).

The FCC's rule at 47 C.F.R. §54.314(a) requires that, in order for Warwick to receive Universal Service Support funds, the Board must file an annual certification with the fund administrator and state to the FCC that "all federal high-cost support provided to [Warwick] will be used only for provision, maintenance, and upgrading of facilities and service for which the support is

intended." Pursuant to 47 C.F.R. §54.314(d), the Board's annual certification must be filed with the administrator and the FCC by October 1, 2006, in order for Warwick to receive Universal Service Support fund support for 2007.

By previous Order, dated August 17, 2005 at Docket No. TO01090575, the Board certified Warwick's use of Universal Service Support funds in order for Warwick to receive support in 2006. In that Order, the Board stated:

Because state certification is now required on an annual basis, and in order to ensure use of Universal Service Support funds in a manner consistent with federal law, the Board DIRECTS Warwick to continue to submit to the Board, no later than July 1<sup>st</sup> and January 1<sup>st</sup> of each year, a report, in a manner and format to be determined by Staff, providing auditable information sufficient to determine Warwick's compliance with federal law, including, but not limited to, compliance with the FCC's required uses of Universal Service Support funds. The Board FURTHER DIRECTS Warwick to continue to file its future requests for Board certification no later than July 1<sup>st</sup> of each year, absent extenuating circumstances, and to simultaneously publish notice of the filing in newspapers of general circulation in its service territory. Such notice shall be reviewed by Staff prior to its publication.

By letter, dated January 19, 2006, Warwick provided pro forma information as of December 21, 2005 on Warwick's use of Universal Service Support funds, in the same format and using the same accounting method that Warwick used in filing its previous petition for certification, dated June 29, 2005, at Docket No. TO01090575. Warwick stated that, absent different format and accounting methods determined by Board Staff, it intended to file, on a semi-annual basis, the same form of schedules as its support for obtaining the Board's future certifications on use of Universal Service Support funds.

Warwick has filed the following information

- A - Cost Support Response Form prepared as of June 15, 2006 (schedules for 2006 pro forma and 2007 projected).
- B - Affidavit of Michael A. Cutler, Vice President of Warwick, certifying use of Universal Service Support funds for 2007 will be for intended purposes under the Act.
- C - A copy of the proof of newspaper publication of this filing.

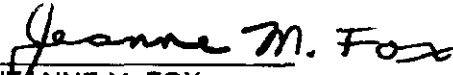
Having reviewed the petition and the information submitted in support thereof, the Board HEREBY CERTIFIES that Warwick shall use the federal Universal Service Support it receives during 2007 for the provision, maintenance and upgrading of facilities and service for which such support is intended, as required by Section 254(e) of the Telecommunications Act of 1996 and 47 C.F.R. §54.101 et seq.

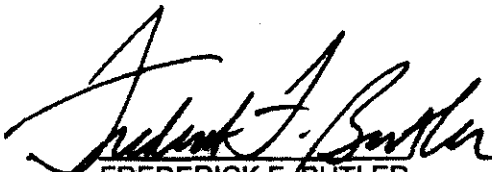
Because state certification is now required on an annual basis, and in order to ensure continued use of Universal Service Support funds in a manner consistent with federal law, the Board DIRECTS Warwick to continue to submit to the Board, no later than July 1<sup>st</sup> and January 1<sup>st</sup> of each year, a report, in a manner and format to be determined by Staff, providing auditable information sufficient to determine Warwick's compliance with federal law, including, but not limited to, compliance with the FCC's required uses of Universal Service Support funds.


The Board FURTHER DIRECTS Warwick to continue to file its future requests for Board certification no later than July 1<sup>st</sup> of each year, absent extenuating circumstances, and to simultaneously publish notice of the filing in newspapers of general circulation in its service territory. Such notice shall be reviewed by Staff prior to its publication. In addition, the Board requests that the Attorney General's office provide, to both the Office of the Secretary of the FCC and the Administrator of the high-cost universal service support mechanism, a letter transmitting this Order to serve as compliance with the certification requirements as set forth in 47 C.F.R. §54.315.

DATED. 9/14/06


BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
CONNIE O. HUGHES  
COMMISSIONER

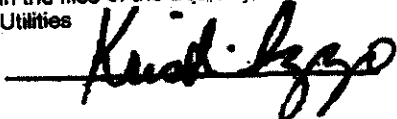
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



Service List

Docket No. TO01090575

Martin Rothfelder, Esq.  
Rothfelder Stern, L.L.C.  
625 Central Avenue  
Westfield, NJ 07090

Michael A. Cutler, Vice President  
Warwick Valley Telephone Company  
47 Main Street  
P.O. Box 592  
Warwick, NY 10990

Carol Artale  
Legal Specialist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Seema M. Singh, Acting Ratepayer Advocate  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101

Kenneth Sheehan, D.A.G.  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07102

Julie Huff  
Board of Public Utilities  
Division of Telecommunications  
Two Gateway Center  
Newark, NJ 07102

# Public Service Commission

Richard E. Hitt, General Counsel

DOCKET FILE COPY ORIGINAL



201 Brooks Street, P.O. Box 812  
Charleston, West Virginia 25323

Phone: (304) 340-0317  
FAX: (304) 340-0372

September 26, 2006

Received & Accepted

OCT - 3 2006

REC'D - 12/1/06

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743  
(overnight mail)

(Duplicate copy to:)  
Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Karen Majcher  
Universal Service Administrative Company  
2000 L Street, NW  
Suite 200  
Washington, DC 20036

Re: Certification of High Cost Support Pursuant to 47 C.F.R. §§ 54.313,  
54.314 and 54.316, CC Docket No. 96-45

Dear Ms. Dortch and Ms. Majcher:

The Public Service Commission of West Virginia (WVPSC) hereby submits its annual certification in accordance with 47 C.F.R. §§ 54.313, 54.314 and 54.316. These rules of the Federal Communications Commission (FCC) require state certifications to allow non-rural and rural incumbent local exchange carriers, or eligible telecommunications carriers, to receive federal universal service support pursuant to 47 C.F.R. §§ 54.301 - 54.314.

I. Use of High Cost Support Certification – All Carriers.

As required by 47 C.F.R. §§ 54.313(a) and 54.314(a), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support during January 1, 2007 to December 31, 2007:

WVPSC  
12/1/06



Ms. Dortch  
Ms. Majcher  
September 26, 2006  
Page 2

1. Alltel Communications, Inc.
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Easterbrooke Cellular Corporation
6. FiberNet, LLC
7. Gateway Telecom, LLC, dba StratusWave Communications, LLC
8. Hardy Telecommunications, Inc. CLEC
9. Hardy Telecommunications, Inc. ILEC
10. Highland Cellular, LLC
11. Key Communications, LLC, dba West Virginia Wireless
12. Sprint Nextel Corporation
13. Spruce Knob-Seneca Rocks Telephone, Inc.
14. Verizon West Virginia Inc.
15. War Telecommunications
16. West Side Telecommunications
17. West Virginia PCS Alliance, LC dba NTELOS

Attachment A to this letter lists these carriers, each carrier's Study Area Code (SAC), whether the carrier is rural or non-rural, and whether the carrier is an incumbent or competitive carrier. The WVPSC further certifies that these carriers will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. This certification is the product of formal proceedings before the WVPSC. See "Commission Order," *General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunications Carriers in West Virginia*, Case No. 06-0953-T-GI (September 26, 2006) (attached as Attachment C). With respect to Verizon West Virginia Inc. (Verizon WV), all federal universal service support received by Verizon WV is used to reduce monthly rates for single-line business and residential customers in West Virginia, and for network upgrades in high-cost areas, pursuant to an order of the WVPSC. See "Commission Order," *Verizon WV Inc.*, Case No. 05-1778-T-PC (April 3, 2006).

## II. Rate Comparability Certification – Non-rural ILEC Service Areas.

### A. Non-rural ILEC Rate Comparability Certification.

Verizon WV is West Virginia's only non-rural incumbent local exchange carrier (ILEC). As required by 47 C.F.R. § 54.316(a), the WVPSC certifies that the rates charged by Verizon WV in rural areas of its ILEC service area are reasonably comparable to rates charged in urban areas nationwide. This certification is the result of formal proceedings before the WVPSC. See "Commission Order" Case No. 06-0953-T-GI (September 26, 2006). In that case the WVPSC found that the rates charged by Verizon WV to residential customers in rural areas of its ILEC service area are comparable to rates charged in urban areas nationwide for purposes of 47 U.S.C. § 254(e). As set forth in the Order, three of the four residential calling plans available to all Verizon WV customers in West Virginia, including those in rural areas, have basic rates which fall below the national urban benchmark of \$34.58 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, (August 11, 2006). The fourth calling plan, Frequent Caller, has basic rates that are above the benchmark. Nevertheless, the WVPSC believes that all of Verizon WV's rates in rural areas are reasonably comparable to rates charged in urban areas nationwide for the following reasons:

- a. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state, that is, they do not vary based on whether the customer is located in an urban wire center or a rural wire center.
- b. "Local calling areas" are uniformly defined throughout West Virginia, and consist of all adjacent wire centers and wire centers within 22 air miles of the customer's home wire center. This means that every residential customer in every Verizon WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.
- c. Every residential customer in every Verizon WV wire center has the choice of the same four calling plans. Unlike rate plans in other states, residential customers in rural areas are not forced to subscribe to service under only one rate plan. Since the rate plans are optional, no customer is forced to purchase service under any particular plan. Each customer can choose which plan is best for his or her calling needs.

d. Accordingly, Plan 4 is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, since there are other alternative calling plans available from Verizon WV and competitive carriers. Moreover, Plan 4 gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

See "Commission Order," *General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunication Carriers in West Virginia*, Case No. 06-0953-T-GI, (September 26, 2006).

B. Additional Rate Comparability Certification – Competitive ETCs.

The WVPSC has also reviewed the residential rates charged by competitive eligible telecommunications carriers (CETCs) in rural areas of West Virginia served by Verizon WV and determined that the following CETCs' rates are reasonably comparable to urban rates nationwide:

1. Alltel Communications, Inc.
2. Easterbrooke Cellular Corporation
3. FiberNet, LLC
4. Gateway Telecom, LLC, dba StratusWave Communications
5. Highland Cellular, LLC
6. Key Communications, LLC, dba West Virginia Wireless
7. Sprint Nextel Corporation
8. West Virginia PCS Alliance, LC dba NTELOS

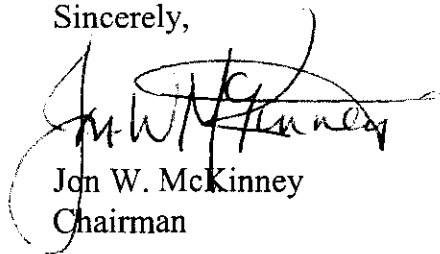
As noted in Attachment B to this letter, several of these carriers offer residential rates to customers in rural wire centers served by Verizon WV that fall below the national urban benchmark of \$34.58 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, (August 11, 2006). To the extent that some of these CETCs offer basic calling plans with rates that are above the national urban benchmark, the WVPSC believes that plans are nevertheless comparable to urban rates nationwide because these plans include calling features that are not federally supported, such as long distance calling and vertical services. The WVPSC will continue to closely monitor CETCs which offer basic calling plans with rates above the national urban benchmark.

Ms. Dortch  
Ms. Majcher  
September 26, 2006  
Page 5

III. Conclusion.

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the FCC's efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of customers and make those rates more comparable to rates paid by consumers in other parts of the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon W. McKinney", is written over a circular stamp or seal. The signature is fluid and cursive.

Jon W. McKinney  
Chairman

JJW/klm  
Enclosures

**ATTACHMENT A**

**Rural and Non-Rural Carriers Certified to Receive High Cost Support**

<b>Carrier</b>	<b>SAC<sup>1</sup></b>	<b>Rural/ Non-Rural<sup>2</sup></b>	<b>Type<sup>3</sup></b>
Alltel Communications, Inc.	209008	N	C
Armstrong Telephone Company - Northern Division	200267	R	I
Armstrong Telephone Company - West Virginia	200256	R	I
Citizens Telecommunications of West Virginia, Inc.	200271	R	I
Citizens Telecommunications of West Virginia, Inc.	204338	R	I
Citizens Telecommunications of West Virginia, Inc.	204339	R	I
Easterbrooke Cellular Corporation	209006	R	C
Easterbrooke Cellular Corporation	209006	N	C
FiberNet, LLC	209002	N	C
FiberNet, LLC	209002	R	C
Gateway Telecom, LLC, dba StratusWave Communications, LLC	209001	N	C
Hardy Telecommunications, Inc. (CLEC)	200259	R	C
Hardy Telecommunications, Inc. (ILEC)	200259	R	I
Highland Cellular, LLC	209003	R	C
Highland Cellular, LLC	209003	N	C
Key Communications, LLC, dba West Virginia Wireless	209010	R	C
Sprint Nextel Corporation	209007	N	C

---

<sup>1</sup>Study Area Code

<sup>2</sup>R - Rural Carrier; N - Non-Rural Carrier

<sup>3</sup>I- Incumbent; C - Competitive

Spruce Knob-Seneca Rocks Telephone, Inc.	200257	R	I
Verizon West Virginia Inc.	205050	N	I
War Telecommunications	200258	R	I
West Side Telecommunications	200277	R	I
West Virginia PCS Alliance, LC dba NTELOS	209909	N	C

**ATTACHMENT B****ADDITIONAL RATE COMPARABILITY CERTIFICATION  
COMPETITIVE ETCS**

<b>FCC Benchmark</b>	<b>Carrier</b>	<b>Carrier Rate</b>
\$34.58	AllTel Communications, Inc.	\$35.90
\$34.58	Easterbrooke Cellular Corporation	\$31.84
\$34.58	FiberNet, LLC	\$34.16
\$34.58	Gateway Telecom, LLC, dba Stratus Wave Communications	\$29.63
\$34.58	Highland Cellular, LLC	\$30.32
\$34.58	Key Communications, LLC, dba West Virginia Wireless	\$56.12
\$34.58	Sprint Nextel Corporation	\$34.96
\$34.58	West Virginia PCS Alliance, L.C. dba NTELOS	\$36.30

060953coma092606.wpd

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 26th day of September, 2006.

CASE NO. 06-0953-T-GI

**GENERAL INVESTIGATION  
REGARDING CERTIFICATION OF  
FEDERAL UNIVERSAL SERVICE  
FUNDING FOR ELIGIBLE  
TELECOMMUNICATIONS CARRIERS  
IN WEST VIRGINIA.**

General investigation into the certification of federal universal service funding for eligible telecommunications carriers in West Virginia.

**COMMISSION ORDER**

By this Order, the Commission finds that eligible telecommunications carriers in West Virginia are appropriately using federal universal service funds (USFs) and that rates in rural areas served by non-rural incumbent carriers are comparable to rates charged in urban areas nationwide.

**Background**

In its July 25, 2006 Order promulgating this general investigation the Commission noted that the Federal Communications Commission (FCC) requires states to file a certificate stating that all federal high-cost funds flowing to non-rural carriers and rural carriers in that state will be used consistent with Section 254(e) of the Telecommunications Act of 1934 (as amended). *See* 47 U.S.C. 254(e); 47 C.F.R. §§ 54.313 and 54.314. These filings must be made on an annual basis in order for the states to certify which carriers are eligible for USFs. Further, pursuant to 47 C.F.R. § 54.313(c), if the state commissions file a certification with the FCC prior to October 1, then USFs for the next calendar year will be forwarded to non-rural carriers; however, if they are not filed by October 1, then the number of calendar quarters for which non-rural carriers receive funding is reduced. This filing is also required of rural carriers, pursuant to 47 C.F.R. § 54.314.



Pursuant to *West Virginia Code* § 24-1-1(f)(2) and Rule 6.3. of the *Rules of Practice and Procedure*, the Commission initiated this general investigation (GI) regarding the certification of federal universal service funding for eligible telecommunications carriers (ETCs) in West Virginia, for calendar year 2007. The GI was opened to determine whether ETCs are in compliance with Section 254(e)<sup>1</sup> of the Telecommunications Act of 1934 (as amended).

The July 25, 2006 Order further noted the FCC's release of a Report and Order on March 17, 2005 which addressed, in part, annual certification and reporting requirements ("Report and Order").<sup>2</sup> In the Report and Order, the FCC strengthened its reporting requirements for ETCs to ensure that high-cost universal service support continues to be used for its intended purposes. The FCC's new requirements, as well as the FCC's statement of need for the additional requirements, were set forth in this Commission's July 25, 2006 Order. The FCC further encouraged state commissions to adopt the same annual reporting requirements, to be applicable to all ETCs, not just competitive ETCs. Report and Order at ¶ 71. The FCC also recognized that state commissions possess the authority to rescind ETC designations for failure of an ETC to comply with the requirements of section 214(e) of the Act or any other conditions imposed by the state. Report and Order at ¶ 72.

This Commission's May 17, 2005 Order, initiating the prior annual general investigation in Case No. 05-0714-T-GI, adopted the FCC's annual reporting requirements, in addition to the reporting requirements required in previous years, including the requirement that all ETCs must file verified statements that they use universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

Pursuant to 47 C.F.R. § 54.316, each state must annually review the comparability of residential rates in rural areas served by *non-rural incumbent* local exchange carriers to urban rates nationwide, and certify to the FCC and Universal Service Administrative Company (USAC) whether the rates are reasonably comparable (a rate comparability certification). Verizon West Virginia Inc. (Verizon WV) is the only non-rural incumbent local exchange carrier in West Virginia. Thus, only ETCs serving such non-rural service areas are required to make rate comparability certifications. For purposes of making this determination, the carriers were required to file with this Commission the following information:

---

<sup>1</sup> This section states that federal USFs received by ETCs must be used "only for the provision, maintenance and upgrading of facilities and services for which the support is intended."

<sup>2</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 05-46 (Rel. March 17, 2005).

1. Monthly line charge
2. Monthly usage charges (an average may be used)
3. Any federal subscriber line charge
4. Any federal universal service credit
5. Any federal universal service surcharge
6. Any local number portability surcharge
7. Any telecommunications relay service surcharge
8. Any E-911 surcharge
9. Federal excise tax

Filings of the information as set forth above were ordered to be submitted in accordance with the following schedule:

<u>Filing</u>	<u>Deadline</u>
Carriers' Initial filings with 12 months of data and supporting documents	August 1, 2006
Commission Staff's Final Memorandum	September 8, 2006
Carriers' Responses to Staff's Final Memorandum	September 18, 2006

The Commission also directed that the carriers' verified statements be posted on the Commission's website at <http://www.psc.state.wv.us>; directed that notice of its Order and the internet posting of carriers' verified statements be published once in the *Charleston Gazette* and *Charleston Daily Mail*; and invited interested persons to file comments with the Commission by August 16, 2006.

The Commission's Consumer Advocate Division (CAD) filed a petition to intervene on July 25, 2006.

Thereafter, in accordance with the August 1, 2006 filing deadline, the following ETCs filed their respective documentation and requests that the Commission certify to the FCC and the USAC their eligibility to continue to receive federal high-cost support in calendar year 2007:

1. Alltel Communications, Inc.<sup>3</sup>
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Easterbrooke Cellular Corporation<sup>3</sup>

---

<sup>3</sup> Filed a request for protective treatment for portions of the information contained in its filing.

6. FiberNet, LLC
7. Gateway Telecom, LLC, dba StratusWave Communications, LLC
8. Hardy Telecommunications, Inc. CLEC
9. Hardy Telecommunications, Inc. ILEC
10. Highland Cellular, LLC<sup>3</sup>
11. Key Communications, LLC, dba West Virginia Wireless<sup>3</sup>
12. Sprint Nextel Corporation<sup>3</sup>
13. Spruce Knob-Seneca Rocks Telephone, Inc.
14. Verizon West Virginia Inc.<sup>3</sup>
15. War Telecommunications
16. West Side Telecommunications
17. West Virginia PCS Alliance, LC dba NTELOS

On August 16, 2006 the CAD filed proprietary and public versions of its "Comments of the Consumer Advocate Division." Regarding the request for proprietary and confidential treatment filed by several of the carriers, the CAD noted that the requests for confidential treatment were not consistent across the group of carriers. For example, often the same type of data was disclosed by some carriers and redacted by others. The CAD also noted that Verizon WV requested protective status of information that in past years it had provided without requesting confidential treatment. The CAD stated that it would file a separate formal response regarding the requests for protective treatment.

Regarding "Rate Comparability Certification - Non-Rural ILEC Service Area," the CAD noted that as part of the annual certification the Commission must certify that rates charged by ETCs providing service in the rural areas served by incumbent, non-rural carriers are reasonably comparable to rates charged in urban areas nationwide. The CAD summarized the rate data submitted by the various ETCs. The CAD stated that the total cost of several competitive ETC calling plans and one basic plan of Verizon WV exceed the national urban rate benchmark. The CAD recommended that the Commission should nevertheless certify that rates charged in rural areas of Verizon WV's territory are compatible to rates charged in urban areas nationwide. The CAD also recommended that the Commission put all competitive ETCs on notice that they are expected in the future to have at least one basic plan with total costs below the national urban benchmark if they wish to maintain Commission certification.

The CAD noted that a review of the rate data submitted by the competitive ETCs showed that confusion remains regarding what plans and what rate surcharges should be included in the rate comparability submissions. The CAD stated that, while it was appropriate and educational to review all plans offered by a carrier within the state, the important point is that the carriers should be directed to submit detailed rate data on calling plans that fall below the rate benchmark and are comparable to calling plans offered by the incumbent carrier.

The CAD recommended that the Commission clarify that carriers should list all mandatory surcharges that apply to the listed basic calling plan, as well as the federal universal service charge that would apply to that plan.

The CAD stated that even though several carriers had reported total costs for basic service that are above the rate benchmark, the Commission should nevertheless certify these rates as comparable for the same reasons as set forth at pages 7 and 8 in the Commission's September 29, 2005 decision in Case No. 05-0714-T-GI. The CAD continued by arguing that the Commission should take notice of the fact that a number of the reported rates that are under the rate benchmark are only barely under that mark. The CAD recommended the Commission make clear that a finding of rate comparability in this proceeding does not authorize carriers to raise rates up to and beyond the rate benchmark. To that end, the CAD noted that in Case No. 05-1778-T-PC, Verizon WV used the Commission's finding of rate comparability in the 2005 ETC certification case as a basis for its arguments in favor of lowering the USF credit to all customers.<sup>4</sup> The CAD argued that rate comparability is meant to ensure that customers throughout the nation pay reasonable and affordable rates, and is not meant as an excuse for a carrier to raise its rates.

On August 23, 2006 Verizon WV filed its "Reply of Verizon West Virginia Inc. to Comments of the Consumer Advocate Division." Verizon WV noted that its "Frequent Caller Plan (Plan 4)" is an optional calling plan. Verizon WV noted that in the present case, despite the CAD's position on the Frequent Caller Plan, the CAD did not oppose the ETC certification of Verizon WV on the grounds of the Frequent Caller Plan. Verizon WV argued that its optional Frequent Caller Plan complies with the FCC's benchmark once reasonable adjustments are made for the large local calling areas covered by the plan. Verizon WV requested that the Commission continue to certify it as an ETC.

Commission Staff (Staff) filed its "Initial Joint Staff Memorandum" on August 24, 2006 noting that its final recommendation was forthcoming.

On September 8, 2006 Staff filed its "Final Joint Staff Memorandum." Staff shared the CAD's concern regarding the requests for confidential treatment. However, Staff stated that ETC requests for confidential treatment did not have any affect upon whether the particular ETC should be certified to the FCC by the Commission as being adequately compliant with applicable ETC/USF requirements.

Staff recommended the Commission timely certify to the FCC that the 17 ETC telecommunications utilities filing in the instant proceeding are adequately in compliance with all applicable ETC/USF requirements in the current reporting period. More specifically, Staff stated the following:

---

<sup>4</sup>By order dated April 3, 2006 the Commission maintained the USF rate credit for residential and single-line business customers at \$2.00 per line per month. *See, Verizon West Virginia Inc.*, Case No. 05-1778-T-PC, "Commission Order" (April 3, 2006).

CAD also commented in detail and at length regarding the matter of comparability of rural rates *vis a vis* rates charged in urban areas. CAD asserts that the Commission should take certain steps regarding instances where some of the ETC filers in this proceeding have rural rates higher than the applicable FCC bench mark; however, CAD does not want the Commission to withhold ETC/USF certification approval from any of the ETCs who fall into this category. I agree with CAD's concerns and recommendations in this regard. Verizon has taken issue with CAD regarding the telephone company's perception of CAD's comments regarding Verizon's Frequent Caller Plan (Plan 4) option. I do not find that matter to be significant.

In my review of the seventeen filings by the ETCs, I did not find anything that causes me to have objection to Commission certification to the FCC of ETC/USF compliance by the filing companies. There are certain instances where I plan to, informally and outside of this proceeding, contact an ETC to get additional information/clarification, mostly regarding some technical, infrastructure, emergency preparedness and/or service quality issues. Following receipt of such additional data, I will, as appropriate, work with the ETC to improve matters inasmuch as such is in the public interest. None of these matters rise to the level of needing to be dealt with further in this proceeding, i.e., those matters should not stand in the way of Commission ETC/USF certification to the FCC for any of the filers.

## **DISCUSSION**

### **CAD Request to Intervene**

The Commission shall herein grant the CAD's request to intervene.

### **Use of High-Cost Support Certification - All Carriers**

With regard to the use of USFs, the Commission finds and concludes that the following telecommunications carriers should be certified to receive Federal Universal Service support during January 1, 2007 to December 31, 2007, as they use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Telecommunications Act of 1934 (as amended):

1. Alltel Communications, Inc.
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Easterbrooke Cellular Corporation
6. FiberNet, LLC

7. Gateway Telecom, LLC, dba StratusWave Communications, LLC
8. Hardy Telecommunications, Inc. CLEC
9. Hardy Telecommunications, Inc. ILEC
10. Highland Cellular, LLC
11. Key Communications, LLC, dba West Virginia Wireless
12. Sprint Nextel Corporation
13. Spruce Knob-Seneca Rocks Telephone, Inc.
14. Verizon West Virginia Inc.
15. War Telecommunications
16. West Side Telecommunications
17. West Virginia PCS Alliance, LC dba NTELOS

#### Rate Comparability Certification - Non-rural ILEC Service Areas

The Commission concludes that the rates charged by the incumbent non-rural carrier, Verizon WV, to residential customers in rural areas of West Virginia are comparable to rates charged in urban areas for purposes of 47 U.S.C. § 254(e). Three of the four residential calling plans available to all Verizon WV customers in West Virginia, including those in rural areas, have basic rates which fall below the national urban benchmark of \$34.58 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, (August 11, 2006). The fourth calling plan, Frequent Caller, has basic rates that are above the benchmark. Nevertheless, the Commission believes that all of Verizon WV's rates in rural areas are reasonably comparable to rates charged in urban areas for the following reasons:

1. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state, that is, they do not vary based on whether the customer is located in an urban wire center or a rural wire center.
2. "Local calling areas" are uniformly defined throughout West Virginia, and consist of all adjacent wire centers and wire centers within 22 air miles of the customer's home wire center. This means that every residential customer in every Verizon WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.
3. Every residential customer in every Verizon WV wire center has the choice of the same four calling plans. Unlike rate plans in other states, residential customers in rural areas are not forced to subscribe to service under only one rate plan. Since the rate plans are optional, no customer is forced to purchase service under any particular plan. Each customer can choose which plan is best for his or her calling needs.

4. Accordingly, Plan 4 is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, since there are other alternative calling plans available from Verizon WV and competitive carriers. Moreover, Plan 4 gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

#### Additional Rate Comparability Certification - Competitive ETCs

The Commission also reviewed the comparability of the residential rates of the following competitive ETCs charged in rural areas of West Virginia served by Verizon WV and determined that they are reasonably comparable to rates charged in urban areas:

1. Alltel Communications, Inc.
2. Easterbrooke Cellular Corporation
3. FiberNet, LLC
4. Gateway Telecom, LLC, dba StratusWave Communications
5. Highland Cellular, LLC
6. Key Communications, LLC, dba West Virginia Wireless
7. Sprint Nextel Corporation
8. West Virginia PCS Alliance, LC dba NTELOS

As noted in Attachment A to this Order, several of these carriers offer residential rates<sup>5</sup> to customers in rural wire centers served by Verizon WV that fall below the national urban benchmark of \$34.58 per month. To the extent that some of these CETCs offer basic calling plans with rates that are above the national urban benchmark, the Commission believes that plans are nevertheless comparable to urban rates nationwide because these plans include calling features that are not federally supported, such as long distance calling and vertical services, in addition to the existence of uniform residential rates, uniformly defined "local calling areas" in West Virginia, and the existence of competitive carriers offering alternative calling plans. The Commission will continue to closely monitor CETCs which offer basic calling plans with rates above the national urban benchmark.

#### Certification conclusion

Pursuant to Section 254(e) of the Telecommunications Act of 1934 (as amended), the Commission finds and concludes that it should certify by letter to the FCC and the USAC that all federal high-cost support will be used by the above-listed ETCs only for the provision, maintenance, and upgrading of facilities and services for which the support is

---

<sup>5</sup> The Commission adopted the CAD's August 16, 2006 comparative chart including the CAD's grouping of Federal Universal Service Fund charges and inclusion of Federal excise tax in order to create an "apples-to-apples" comparison.

intended, consistent with Section 254(e) of the Telecommunications Act. Such letter shall be issued and received by the FCC on or before Friday, September 29, 2006.

#### Requests for Protective Treatment

Several of the filers requested protective treatment of certain aspects of the respective filings. Specifically:

Alltel Communications, Inc.

- 5-year service improvement plan

Easterbrooke Cellular Corporation

- past and proposed network improvements

Highland Cellular, LLC

- past and proposed network improvements

Key Communications, LLC, dba West Virginia Wireless

- outage report

Sprint Nextel Corporation

- 2005 network expenditure information
- 5-year service improvement plan
- outage report

Verizon West Virginia Inc.

- outage report
- wire-center specific construction and network information
- customer average monthly usage data

As noted in the CAD's August 16, 2006 filing, the majority of the filings in this case did not request protected treatment. Others asked for protected treatment of some portions of their filing. Verizon WV requested protective treatment of, among other things, average monthly usage data, even though Verizon WV submitted such information in last year's certification case without requesting to protect the information.

As it is possible to issue this Order and the corresponding certification letter without including any of the proprietary information, the Commission concludes that there is no need to rule upon the requests for protected treatment at this time. The Commission shall direct its Executive Secretary to maintain such information separate and apart from the rest of the file. Should there be a request filed with the Commission in the future to make such information public, the Commission shall require the entity seeking protective treatment to argue its request for protective treatment at that time.

#### Requirements for Next Year's Certification Filings

In the September 29, 2005 Order in Case No. 05-0714-T-GI, the Commission directed all eligible telecommunications carriers to file certain information with the Commission on or before August 1, 2006 in order to assure that the Commission would have the necessary



information available for its certification letter to the FCC. The Commission shall similarly require such filings be made on or before August 1, 2007.

In addition, the Commission places all CETCs on notice that the failure to have at least one basic plan with total costs below the national urban benchmark may jeopardize future certifications of that CETC.

The filing carriers are also directed to list all mandatory surcharges that apply to the listed basic calling plan, as well as the Federal Universal Service Charge that would apply to that plan, to facilitate comparison to the national urban benchmark.

Finally, the filers shall submit, as part of their certification filing, their Study Area Code(s), whether the filer is a Rural Carrier and/or a Non-Rural Carrier, and whether the filer is an Incumbent or a Competitive Carrier.

### **FINDINGS OF FACT**

1. On July 25, 2006, pursuant to *West Virginia Code* § 24-1-1(f)(2) and Rule 6.3. of the *Rules of Practice and Procedure*, the Commission initiated this general investigation regarding the certification of federal universal service funding for eligible telecommunications carriers (ETCs) in West Virginia, for calendar year 2007.

2. In accordance with the August 1, 2006 filing deadline, the ETCs filed their respective documentation and requests that the Commission certify to the FCC and the USAC their eligibility to continue to receive federal high-cost support in calendar year 2007. Several of the filers requested protective treatment.

3. On August 16, 2006 the CAD filed its "Comments of the Consumer Advocate Division" setting forth several recommendations, including that the Commission certify that rates charged by ETCs providing service in the rural areas served by incumbent, non-rural carriers are reasonably comparable to rates charged in urban areas nationwide.

4. On September 8, 2006 Staff filed its "Final Joint Staff Memorandum." Staff recommended the Commission timely certify to the FCC that the 17 ETC telecommunications utilities filing in the instant proceeding are adequately in compliance with all applicable ETC/USF requirements in the current reporting period.

### **CONCLUSIONS OF LAW**

1. It is reasonable to grant the CAD's request to intervene.

2. With regard to the use of USFs, the Commission finds and concludes that the following telecommunications carriers should be certified to receive Federal Universal Service support during January 1, 2007 to December 31, 2007, as they use federal universal